
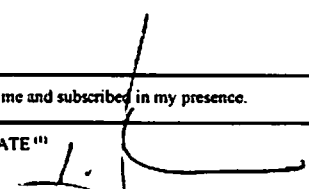


## CRIMINAL COMPLAINT

# 12-125

<b>United States District Court</b>		DISTRICT Eastern District of Pennsylvania	
UNITED STATES OF AMERICA  v.  KENNETH W. SMITH, JR.		DOCKET NO.	
		MAGISTRATE'S CASE NO.  12-1306	
Complaint for violation of Title 18 United States Code §§ 844(e) and 1038(a)(1)			
NAME OF JUDGE OR MAGISTRATE  HONORABLE HENRY S. PERKIN		OFFICIAL TITLE  U.S. Magistrate Judge	LOCATION  Philadelphia, PA
DATE OF OFFENSE  September 6, 2012	PLACE OF OFFENSE  Philadelphia, PA	ADDRESS OF ACCUSED (if known)  Philadelphia, PA	
<small>COMPLAINANT'S STATEMENT OF FACTS CONSTITUTING THE OFFENSE OR VIOLATION:</small> On or about September 6, 2012, in Philadelphia, in the Eastern District of Pennsylvania, defendant KENNETH W. SMITH, JR.: <ol style="list-style-type: none"> <li>1. by means and use of an instrument of commerce, that is, a telephone, maliciously conveyed false information, knowing the same to be false, concerning an alleged attempt being made, or to be made, to unlawfully damage or destroy an aircraft by means of an explosive, in violation of Title 18, United States Code, Section 844(e); and</li> <li>2. knowingly engaged in conduct with intent to convey false and misleading information under circumstances where such information may reasonably be believed, and where such information indicated that an activity had taken place, was taking place, and would take place that would constitute a violation of Chapter 2 (Aircraft and Motor Vehicles) of Title 18, United States Code, including Title 18, United States Code, Section 32, when defendant SMITH placed a telephone call to the Philadelphia Airport Police reporting an alleged attempt being made to carry an explosive substance onto an aircraft, knowing such statement to be false and fictitious, in violation of Title 18, United States Code, Section 1038(a)(1).</li> </ol>			
<small>BASIS OF COMPLAINANT'S CHARGE AGAINST THE ACCUSED:</small>  <div style="text-align: center; font-weight: bold; padding: 10px 0;">SEE AFFIDAVIT ATTACHED HERETO.</div>			
<small>MATERIAL WITNESSES IN RELATION AGAINST THE ACCUSED:</small>			
Being duly sworn, I declare that the foregoing is true and correct to the best of my knowledge.		<small>SIGNATURE OF COMPLAINANT (official title)</small> <div style="text-align: center;">             David L. O'Brien         </div>	
		<small>OFFICIAL TITLE</small> Special Agent, Alcohol, Tobacco, Firearms and Explosives	
<small>Sworn to before me and subscribed in my presence.</small>			
<small>SIGNATURE OF MAGISTRATE <sup>(1)</sup></small> <div style="text-align: center;">             HONORABLE HENRY S. PERKIN, United States Magistrate Judge         </div>		<small>DATE</small> 9/7/2012	

1) See Federal Rules of Criminal Procedure rules 3 and 54.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

v.

WARRANT FOR ARREST

KENNETH W. SMITH, JR.

CASE NUMBER: 12-1306-M-1

To: The United States Marshal and any Authorized  
United States Officer

YOU ARE HEREBY COMMANDED to arrest Kenneth W. Smith, Jr.

and bring him or her forthwith to the nearest magistrate judge to answer a(n)

Complaint

charging him or her with (brief description of offense)

On or about September 6, 2012, in Philadelphia, in the Eastern District of Pa., defendant KENNETH W. SMITH, JR.:

1. by means and use of an instrument of commerce, that is, a telephone, maliciously conveyed false information, knowing the same to be false, concerning an alleged attempt being made, or to be made, to unlawfully damage or destroy an aircraft by means of an explosive, in violation of Title 18, United States Code, Section 844(e); and
2. knowingly engaged in conduct with intent to convey false and misleading information under circumstances where such information may reasonably be believed, and where such information indicated that an activity had taken place, was taking place, and would take place that would constitute a violation of Chapter 2 (Aircraft and Motor Vehicles) of Title 18, United States Code, including Title 18, United States Code, Section 32, when defendant SMITH placed a telephone call to the Philadelphia Airport Police reporting an alleged attempt being made to carry an explosive substance onto an aircraft, knowing such statement to be false and fictitious, in violation of Title 18, United States Code, Section 1038(a)(1).

In violation of Title 18 United States Code, Sections 844(e) and 1038(a)(1).

HONORABLE HENRY S. PERKIN

Name of Issuing Officer

Signature of Issuing Officer

United States Magistrate Judge

Title of Issuing Officer

9/7/2012 11:15 AM Philadelphia, PA

Date and Location

Bail fixed at \$ \_\_\_\_\_ by \_\_\_\_\_  
Name of Judicial Officer

**RETURN**

This warrant was received and executed with the arrest of the above-named defendant at \_\_\_\_\_

DATE RECEIVED	NAME AND TITLE OF ARRESTING OFFICER David L. O'Brien, Special Agent	SIGNATURE OF ARRESTING OFFICER
DATE OF ARREST	Alcohol, Tobacco, Firearms and Explosives	

J. Williams Authorizing

## AFFIDAVIT

I, DAVID L. O'BRIEN, being duly sworn, do hereby state:

1. I am a Special Agent with the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). I have been employed as a Special Agent with ATF for over 11 years. I am a graduate of the Federal Law Enforcement Training Center and the ATF National Academy. I am currently assigned to the Joint Terrorism Task Force (JTTF), and I have been so assigned for approximately 4 years. As part of my duties, I have investigated cases that involve arson and explosives.

2. This affidavit is based on my personal knowledge and observations, as well as those of other law enforcement officials.

3. I am submitting this Affidavit in support of a Complaint and Warrant to arrest KENNETH W. SMITH, JR., for using an instrument of commerce, that is, a telephone, to maliciously convey false information, knowing the same to be false, concerning an alleged attempt being made, or to be made, to unlawfully damage or destroy an aircraft by means of an explosive, in violation of Title 18, United States Code, Section 844(e); and for knowingly engaging in conduct with the intent to convey false and misleading information under circumstances where such information may reasonably be believed, and where such information indicated that an activity had taken place, was taking place, and would take place that would constitute a violation of Chapter 2 (Aircraft and Motor Vehicles) of Title 18, United States Code, including Title 18, United States Code, Section 32, when defendant SMITH placed a telephone call reporting an alleged attempt being made to carry an explosive substance onto an aircraft, in violation of Title 18, United States Code, Section 1038(a)(1).

4. On September 6, 2012, at approximately 7:20 am, Philadelphia Airport Police received a telephone call naming a white male passenger (Person-1), scheduled to fly from Philadelphia International Airport (PIA) to Dallas-Fort Worth, Texas that morning, who had "liquid explosive" on him that he was going to attempt to get through TSA security. The caller identified himself as "George Michaels," with an address of 1861 Frankford Avenue, Philadelphia, and a phone number of 215-439-1340.

5. After receiving the aforementioned telephone call, Philadelphia Police at PIA identified Person-1 as a passenger on US Airways flight 1267, which had just departed from PIA for Dallas-Fort Worth at 7:39 am.

6. Flight 1267 was turned around while in flight, and the airplane returned to PIA. Meanwhile, law enforcement, including the Joint Terrorism Task Force, and the Philadelphia Police Bomb Disposal Unit (BDU), responded to the scene.

7. Upon returning to PIA, Person-1 and surrounding passengers were deplaned and interviewed. The BDU, along with FBI Special Agent Bomb Technicians, searched and cleared the plane of explosives. All luggage on Flight 1267 was also removed and screened.

8. When interviewed by law enforcement agents, Person-1 denied possession of any type of explosives. Person-1 consented to a personal search and a search of his cell phone and computers.

9. No explosives were found on the plane, in or on any of the luggage, or on Person-1. A search of Person-1's apartment also indicated no explosives.

10. Examination of Person-1's Facebook page reveals that Person-1 publicly disclosed his intent to travel by airplane from PIA to Dallas-Fort Worth, Texas, on the morning of September 6, 2012.

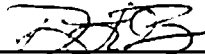
11. Upon further investigation, it was discovered that no one by the name of George Michaels lives at 1861 Frankford Avenue, Philadelphia, PA.

12. During his interview with law enforcement agents, Person-1 stated his belief that his ex-girlfriend and her boyfriend "Kenny" were responsible for making the phone call. Text messages on Person-1's cell phone reveal recent hostile messages exchanged between Person-1 and his ex-girlfriend about her interactions with "Kenny." Person-1 further advised that he and "Kenny" had engaged in hostile exchanges previously, and Person-1 provided the name of "Kenny's" workplace.

13. Law enforcement officers went to the workplace named by Person-1, and the business owner there pointed out his employee "Kenny." When approached, "Kenny" provided the officers with an identification card in the name KENNETH W. SMITH, JR.

14. KENNETH W. SMITH, JR. was Mirandized and interviewed. During this interview, SMITH voluntarily stated that he was the person who called Philadelphia Airport Police posing as George Michaels. SMITH further revealed that, on September 5, 2012, he and others decided that SMITH should call the Philadelphia Airport Police the next morning to report falsely that Person-1 was carrying narcotics through PIA. SMITH and one other person then talked about having SMITH call the Philadelphia Airport Police to report falsely instead that Person-1 was carrying explosives through PIA. SMITH advised that when he woke up on September 6, 2012, he walked to a payphone and called Philadelphia Airport Police. He said that when he called, he used the term "liquid explosives." SMITH stated that his motive for doing so was to "avenge" Person-1's ex-girlfriend, of whom Person-1 had posted a compromising picture on Facebook.

15. Based upon these facts, there is probable cause to believe that on or about September 6, 2012, KENNETH W. SMITH, JR., used an instrument of commerce, that is, a telephone, to malicious convey false information, knowing the same to be false, concerning an alleged attempt being made, or to be made, to unlawfully damage or destroy an aircraft by means of an explosive, in violation of Title 18, United States Code, Section 844(e); and did knowingly engage in conduct with the intent to convey false and misleading information under circumstances where such information may reasonably be believed, and where such information indicated that an activity had taken place, was taking place, and would take place that would constitute a violation of Chapter 2 (Aircraft and Motor Vehicles) of Title 18, United States Code, including Title 18, United States Code, Section 32, when defendant SMITH placed a telephone call reporting an alleged attempt being made to carry an explosive substance onto an aircraft, in violation of Title 18, United States Code, Section 1038(a)(1).



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David L. O'Brien

Special Agent, Alcohol, Tobacco, Firearms and Explosives

Subscribed and sworn to before me  
this 7<sup>th</sup> day of September, 2012



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HONORABLE HENRY S. PERKIN  
United States Magistrate Judge